### IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ELIZABETH SWIFT	:	
702 Harrowgate Lane	:	CIVIL ACTION
New Hope, Pennsylvania 18938	:	
-	:	CASE NO.:
Plaintiff,	:	
v.	:	
	:	JURY TRIAL DEMANDED
GUADENZIA, INC.	:	
106 West Main Street	:	
Norristown, PA 19401	:	
	:	
Defendant.	:	

#### **CIVIL ACTION COMPLAINT**

Plaintiff, by and through her undersigned counsel, hereby avers as follows:

#### **INTRODUCTION**

1. This action has been initiated by Elizabeth Swift (*hereinafter* referred to as "Plaintiff," unless indicated otherwise) against Guadenzia, Inc. (*hereinafter* referred to as "Defendant," unless indicated otherwise) for violations of the Americans with Disabilities Act, as amended- 42 U.S.C. §12101 ("ADA"). Plaintiff was discriminated against because of her actual and/or perceived disabilities and retaliated against for requesting reasonable accommodations. Defendant also failed to accommodate the Plaintiff's disabilities. As a direct consequence of Defendant's unlawful actions, Plaintiff seeks damages as set forth herein.

<sup>&</sup>lt;sup>1</sup> Plaintiff dual filed her EEOC Charge of Discrimination with the Pennsylvania Human Relations Commission ("PHRC"). Plaintiff intends to amend her complaint to include claims pending before the PHRC once such claims are fully and administratively exhausted. These claims will identically mirror claims already filed herein (with no separate distinctions in allegations). This footnote is included for notice purposes only.

#### **JURISDICTION AND VENUE**

- 2. This Court has original subject matter jurisdiction over the instant action pursuant to 28 U.S.C. §§ 1331 and 1343(a)(4) because it arises under the laws of the United States and seeks redress for violations of federal laws. Any state claims amended herein or included would be proper under this Court's ancillary or supplemental jurisdiction to hear state claims arising out of the same common nucleus of operative facts as those set forth in Plaintiff's federal claims.
- 3. This Court may properly maintain personal jurisdiction over Defendant because their contacts with this state and this judicial district are sufficient for the exercise of jurisdiction over Defendant to comply with traditional notions of fair play and substantial justice, satisfying the standard set forth by the United States Supreme Court in *International Shoe Co. v. Washington*, 326 U.S. 310 (1945) and its progeny.
- 4. Pursuant to 28 U.S.C. § 1391(b)(1) and (b)(2), venue is properly laid in this District because actions underlying this case occurred in this District and Defendant is deemed to reside where they are subject to personal jurisdiction, rendering Defendant herein as well.

#### **PARTIES**

- 5. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.
  - 6. Plaintiff is an adult female.
- 7. Defendant is a substance use treatment and recovery center. It is headquartered in Norristown, PA, at the address set forth in the caption.
- 8. At all times relevant herein, Defendant acted by and through its agents, servants, and employees, each of whom acted at all times relevant herein in the course and scope of their employment with and for Defendant.

9. Plaintiff exhausted her administrative remedies regarding her ADA claims by timely filing a Charge of Discrimination with the Equal Employment Opportunity Commission ("EEOC") and by filing this Complaint within 90 days of receiving a notice of right-to-sue letter.

#### FACTUAL BACKGROUND

- 10. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.
  - 11. Plaintiff was hired by Defendant in or about January 2020.
- 12. Plaintiff worked as a full-time clinical supervisor at Defendant's West Chester, PA location.
- 13. Plaintiff was qualified for this position because she held the requisite skills, knowledge and experience for the position.
- 14. Throughout Plaintiff's employment, she was supervised by Carmen Davis, Defendant's Program Director.
- 15. During her employment, Plaintiff performed her job well, was given positive feedback about her performance and was not issued any discipline.
- 16. Plaintiff suffers from Post-Traumatic Stress Disorder ("PTSD"), anxiety and other mental health conditions.
  - 17. Plaintiff has suffered with these mental health conditions for many years.
- 18. Plaintiff's mental health conditions interfere with and affect her daily functioning, including but not limited to her concentration, focus, thinking, interacting with other people, caring for herself and, at times, working.
- 19. Plaintiff has obtained medical treatment for these medical conditions, including obtaining treatment from medical professionals and being prescribed medication.

- 20. Plaintiff informed Defendant's management about her mental health conditions and need for accommodations.
- 21. Despite Plaintiff's disabilities, she was able to perform all the essential functions of her job, with accommodations.
- 22. In the months leading up to her termination, Defendant's management began to overload Plaintiff with work, requiring her to perform her Clinical Supervisor duties as well as handling several clinic clients essentially the work of two full employees all within my 40-hour work week.
- 23. This additional workload began to exacerbate Plaintiff's aforesaid serious health conditions, causing her severe anxiety, fear, and physical complications.
- 24. Defendant's management was well aware that Plaintiff was being assigned a counseling caseload that was against the Pennsylvania Department of Drug and Alcohol Program ("DDAP") regulations, but required her to handle same because Defendant was allegedly "short-staffed" and couldn't afford to hire more employees.
- 25. As a result of Plaintiff's worsening health conditions, on or about November 2, 2020, she informed Ms. Davis and HR that she needed to take the next few days off from work to care for and treat her disabilities.
- 26. In response to this request, Defendant's management immediately told Plaintiff that she did not have any paid time off left and that she was required to come to work.
- 27. Defendant failed to engage in any meaningful discussion with Plaintiff about her request for accommodations (i.e. a few days off from work) and instead, treated her rudely because of her request.

- 28. Plaintiff also specifically requested FMLA leave; however, Plaintiff was informed that she did not qualify for FMLA leave because she had not worked for Defendant long enough.
- 29. Defendant then informed Plaintiff that it needed documentation from her physician in order to accommodate any medical leave.
- 30. On or about November 3, 2020, Plaintiff submitted medical documentation (from her medical providers) to Defendant recommending she take a 2-3-month medical leave to care for her health conditions.
- 31. This accommodation would have enabled Plaintiff to perform the essential functions of her job.
- 32. Defendant, however, immediately denied Plaintiff's request outright without first engaging in any interactive process with Plaintiff and without providing any legitimate reason as to why.
- 33. Instead, Defendant informed Plaintiff that unless she got her physicians to retract all the medical comments and recommendations, she would be terminated, because she was not eligible for FMLA leave.
  - 34. Plaintiff then requested the ability to take short-term disability ("STD").
- 35. Immediately thereafter, Plaintiff's work email access was immediately shut down, and she was not provided with any information about STD.
- 36. Instead of meaningfully engaging in the interactive process with Plaintiff, as required by the ADA including allowing her to take a short medical leave, adjusted hours, or even just following the DDAP guidelines with regard to the amount of clients Plaintiff was required to see, Defendant terminated Plaintiff's employment on or about November 11, 2020.

37. Based on the foregoing, Plaintiff asserts that she was discriminated and retaliated against because of her actual and/or perceived disabilities and her request for accommodations. Defendant also failed to accommodate Plaintiff or engage in the interactive process with her to determine if she could be accommodated.

# Count I <u>Violations of Americans with Disabilities Act, as amended ("ADA")</u> (Actual/Perceived Disability Discrimination; Retaliation; Failure to Accommodate)

- 38. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.
  - 39. Plaintiff suffers from qualifying disabilities.
- 40. Plaintiff was qualified to perform the essential functions of her job, with reasonable accommodations.
  - 41. Plaintiff requested accommodations, including a brief medical leave.
- 42. Plaintiff was subjected to negative treatment because of her medical conditions and requested accommodations.
- 43. Defendant failed to accommodate Plaintiff and failed to engage in any interactive process with her to determine if she could be accommodated.
  - 44. These actions constitute violations of the ADA, as amended.

#### **WHEREFORE**, Plaintiff prays that this Court enter an Order providing that:

A. Defendants are to compensate Plaintiff, reimburse Plaintiff, and make Plaintiff whole for any and all pay and benefits Plaintiff would have received had it not been for Defendants' illegal actions, including but not limited to back pay, front pay, salary, pay increases, bonuses, insurance, benefits, training, promotions, reinstatement, and seniority.

B. Plaintiff is to be awarded punitive damages, as permitted by applicable law, in an

amount believed by the Court or trier of fact to be appropriate to punish Defendants for their

willful, deliberate, malicious and outrageous conduct and to deter Defendants or other employers

from engaging in such misconduct in the future;

C. Plaintiff is to be accorded other equitable and legal relief as the Court deems just,

proper, and appropriate (including but not limited to damages for emotional distress / pain and

suffering);

D. Plaintiff is to be awarded the costs and expenses of this action and reasonable

attorney's fees as provided by applicable federal and state law.

E. Plaintiff is to receive a trial by jury as requested in the caption of this Complaint.

Respectfully submitted,

KARPF, KARPF & CERUTTI, P.C.

By:

Ari R. Karpf, Esq.
Jeremy M. Cerutti, Esq.

3331 Street Road

Two Greenwood Square

Suite 128

Bensalem, PA 19020

(215) 639-0801

Dated: March 29, 2021

### IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

#### CASE MANAGEMENT TRACK DESIGNATION FORM

	. :	CIVIL ACTION				
Elizabeth Swift						
v.		•				
Guadenzia, Inc.		NO.				
plaintiff shall complete a Ca filing the complaint and serv side of this form.) In the designation, that defendant the plaintiff and all other pa	ase Management Track Desi we a copy on all defendants. ( event that a defendant does shall, with its first appearan	y Reduction Plan of this court, counsel gnation Form in all civil cases at the tim See § 1:03 of the plan set forth on the revenot agree with the plaintiff regarding see, submit to the clerk of court and serve track Designation Form specifying the transpect.	erse said			
SELECT ONE OF THE F	OLLOWING CASE MAN	AGEMENT TRACKS:				
(a) Habeas Corpus - Cases brought under 28 U.S.C. § 2241 through § 2255.						
(b) Social Security - Cases and Human Services de	requesting review of a decis nying plaintiff Social Securi	tion of the Secretary of Health ty Benefits.	( )			
(c) Arbitration - Cases required to be designated for arbitration under Local Civil Rule 53.2. (						
(d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. (						
commonly referred to as	Cases that do not fall into tra s complex and that need spe side of this form for a detail	cial or intense management by ed explanation of special	( )			
			( )			
(f) Standard Management -	Cases that do not fall into a	any one of the other tracks.	(X)			
3/30/2021		Plaintiff				
Date	Attorney-at-law	Attorney for				
(215) 639-0801	(215) 639-4970	akarpf@karpf-law.com				
Telephone	FAX Number	E-Mail Address				

(Civ. 660) 10/02

## Case 2:21-cv-01503-GMTED Proches STRICF Head R3/30/21 Page 9 of 10 For the Eastern district of Pennsylvania

#### **DESIGNATION FORM**

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: _702 Harrowgate Lane, New Hope, PA 18938						
Address of Defendant: 106 West Main Street, Norristown, PA 19401						
Place of Accident, Incident or Transaction: Defendant's place of business						
RELATED CASE, IF ANY:						
Case Number:						
Civil cases are deemed related when Yes is answered to any of the following questions:						
1. Is this case related to property included in an earlier numbered suit pending or within one year  Yes  No X						
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit  Yes  No X						
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court?						
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights  Yes  No X						
I certify that, to my knowledge, the within case is / is not related to any case now pending or within one year previously terminated action in this court except as noted above.						
DATE: 3/30/2021 ARK2484 / 91538						
Attorney-at-Law / Pro Se Plaintiff Attorney I.D. # (if applicable)						
CIVIL: (Place a √ in one category only)						
CIVIL: (Place a \( \sqrt{in one category only} \)  A. Federal Question Cases:  B. Diversity Jurisdiction Cases:						
A. Federal Question Cases:    1. Indemnity Contract, Marine Contract, and All Other Contracts						
A. Federal Question Cases:    Diversity Jurisdiction Cases:						
A. Federal Question Cases:    Indemnity Contract, Marine Contract, and All Other Contracts						
A. Federal Question Cases:    1. Indemnity Contract, Marine Contract, and All Other Contracts						
A. Federal Question Cases:    1. Indemnity Contract, Marine Contract, and All Other Contracts     1. Insurance Contract and Other Contracts     2. Airplane Personal Injury     3. Assault, Defamation     4. Antitrust     4. Marine Personal Injury     5. Patent     5. Motor Vehicle Personal Injury     6. Labor-Management Relations     6. Other Personal Injury     7. Products Liability   8. Habeas Corpus     8. Habeas Corpus     8. Products Liability   8. Habeas Corpus     8. Products Liability   9. Securities Act(s) Cases     9. All other Diversity Cases     9. All other Diversity Cases     10. Social Security Review Cases     11. All other Federal Question Cases (Please specify):						
A. Federal Question Cases:    1. Indemnity Contract, Marine Contract, and All Other Contracts   2. FELA   3. Jones Act-Personal Injury   4. Antitrust   5. Patent   6. Labor-Management Relations   7. Civil Rights   8. Habeas Corpus   9. Securities Act(s) Cases   10. Social Security Review Cases   11. All other Federal Question Cases   Please specify):   ARBITRATION CERTIFICATION   The effect of this certification is to remove the case from eligibility for arbitration.)    ARBITRATION CERTIFICATION   ARBITRATION CERTIFICATION     ARBITRATION						

### Case 2:21-cv-01503-CMR\_Document 1\_Filed 03/30/21 Page 10 of 10 CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the

purpose of initiating the civil de	ocket sheet. (SEE INSTRUC	TIONS ON NEXT PAGE OF	THIS FOR	RM.)	, i, is required for the ase of the	or country inc	
I. (a) PLAINTIFFS				DEFENDANTS			
SWIFT, ELIZABETH				GUADENZIA, INC.			
(b) County of Residence of First Listed Plaintiff  (EXCEPT IN U.S. PLAINTIFF CASES)  (c) Attorneys (Firm Name, Address, and Telephone Number)  Karpf, Karpf & Cerutti, P.C.; 3331 Street Road, Two Greenwood Suite 128, Bensalem, PA 19020; (215) 639-0801; akarpf@karpf-l							
II. BASIS OF JURISDI	ICTION (Place an "X" in O	ne Box Only)			RINCIPAL PARTIES	(Place an "X" in One Box for Plaintif	
1 U.S. Government X 3 Federal Question Plaintiff (U.S. Government Not a Party)			(For Diversity Cases Only) P1 n of This State	TF DEF  1 Incorporated or Print  of Business In T			
2 U.S. Government Defendant	4 Diversity (Indicate Citizenshi)	ip of Parties in Item III)	Citizen of Another State 2 2 Incorporated and Principal Place 5 5 of Business In Another State				
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IV. NATURE OF SUIT		ORTS	FO	RFEITURE/PENALTY	BANKRUPTCY  BANKRUPTCY	of Suit Code Descriptions. OTHER STATUTES	
☐ 110 Insurance ☐ 120 Marine ☐ 130 Miller Act ☐ 140 Negotiable Instrument ☐ 150 Recovery of Overpayment	PERSONAL INJURY  310 Airplane  315 Airplane Product Liability  320 Assault, Libel & Slander  330 Federal Employers' Liability  340 Marine  345 Marine Product Liability  350 Motor Vehicle  70 Story Vehicle Product Liability  360 Other Personal Injury  362 Personal Injury  Medical Malpractice  CIVIL RIGHTS  440 Other Civil Rights  441 Voting  442 Employment  443 Housing/ Accommodations  X 445 Amer. w/Disabilities - Other  448 Education	PERSONAL INJURY  365 Personal Injury - Product Liability  367 Health Care/ Pharmaceutical Personal Injury Product Liability  368 Asbestos Personal Injury Product Liability  PERSONAL PROPERT  370 Other Fraud  371 Truth in Lending  380 Other Personal Property Damage Product Liability  PRISONER PETITIONS  Habeas Corpus:  463 Alien Detainee  510 Motions to Vacate Sentence  530 General  535 Death Penalty  Other:  540 Mandamus & Other  550 Civil Rights  555 Prison Condition  560 Civil Detainee - Conditions of Confinement	] 62 ] 69 ] 71 ] 72 ] 74 , 751 ] 79	LABOR  O Fair Labor Standards Act O Labor/Management Relations O Railway Labor Act Family and Medical Leave Act O Other Labor Litigation I Employee Retirement Income Security Act  IMMIGRATION 2 Naturalization Application 5 Other Immigration Actions	' 422 Appeal 28 USC 158 ' 423 Withdrawal	375 False Claims Act ' 376 Qui Tam (31 USC 3729(a))  400 State Reapportionment  410 Antitrust  430 Banks and Banking  450 Commerce  460 Deportation  470 Racketeer Influenced and Corrupt Organizations  480 Consumer Credit  490 Cable/Sat TV  850 Securities/Commodities/ Exchange  890 Other Statutory Actions  891 Agricultural Acts  893 Environmental Matters  895 Freedom of Information Act  896 Arbitration  896 Arbitration  999 Administrative Procedure Act/Review or Appeal of Agency Decision  950 Constitutionality of State Statutes	
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VII. REQUESTED IN COMPLAINT:	CHECK IF THIS UNDER RULE 2	IS A CLASS ACTION 3, F.R.Cv.P.	D	EMAND \$	CHECK YES only JURY DEMAND	if demanded in complaint:  XYes 'No	
VIII. RELATED CASI IF ANY	<b>E(S)</b> (See instructions):	JUDGE			DOCKET NUMBER		
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